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ERIC B. MEYERTONS
CONLEY, ROSE & TAYON, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

EXAMINER

BOYCE, ANDRE D

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/816,678

Applicant(s)

GUINTA ET AL.

Examiner

Andre Boyce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2001.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-143 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-143 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 22 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-143 have been examined.

Claim Objections

2. Claims 30 and 31 are objected to because of the following informalities:
“prompting an assessor to provided” should be --prompting an assessor to provide--.
Claims 57 and 61 are objected to because of the following informalities: the claims are duplicate. One of the claims should be canceled.
Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 28, 29, 54-64, 66-70, 102, and 103 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
Claims 28, 29, 102, and 103 are rendered vague and indefinite, since they are directed to two statutory classes, namely a method and apparatus. The Examiner suggests writing the claims in independent form.
Claims 54-64 and 66-70 are rendered vague and indefinite, since they depend from computer readable medium claims, but recite “The apparatus of claim...”

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 65, 66, 69-71, 113, 114, and 118-122 are rejected under 35 U.S.C. 102(b) as being anticipated by Guinta et al (USPN 5,737,494).

As per claim 65, Guinta et al disclose a displaying a first user adjustable icon with a first allowed input range (i.e., sliding bar indicating a response to how well does your process address this issue, figure 5A), receiving a first input from a user, the first input corresponding to movement of an indicator on the first user adjustable icon (i.e., how well does your process address the issue, determined via sliding bar, figure 5E), determining a second allowed input range for a second user adjustable icon based on the first input (i.e., sliding bar indicating a response to how well is your process deployed, figure 5E), displaying the second user adjustable icon, with the second allowed input range (i.e., the second allowed range being 0-100%, indicates how well a system is deployed, figure 5E), and receiving a second input from the user, the second input corresponding to movement of an indicator on the second user adjustable icon (i.e., input determined via sliding bar, figure 5E).

As per claim 71, Guinta et al disclose a method of using a computer to gather information about an organizational process or system (column 2, lines 39-40), comprising: obtaining information about organization to be accessed, wherein the

information comprises information regarding assessors (i.e., assessor being someone who has knowledge about the organizational process or system, which inherently indicates that information was obtained regarding the assessor, that indicated that the assessor indeed had knowledge of the organizational process or system to be assessed, column 5, lines 62-63); preparing and sending to the assessor at least one question regarding the organizational process or system by analyzing the obtained information about the organization (i.e., computer driven questions adapted to prompt the assessor, column 5, lines 58-60); displaying on a display device of the at least one assessor at least one question (column 5, lines 51-53) adapted to prompt the assessor to input on an input device of a computer the assessor's perceptions of the organizational process or system, wherein the assessor has at least some knowledge about the organizational process or system (column 5, lines 58-63); receiving a first input from an input device, the first input reflecting the assessor's perception of the organizational process or system (column 6, lines 1-6); comparing within a processing unit of a computer the first input to a first value (column 6, lines 7-9), and, if the first input has a first predetermined characteristic in relation to the first values, then prompting the assessor to identify evidence that supports the first input (column 6, lines 9-13), and if the supporting evidence is identified, then validating the first input for subsequent evaluation (column 6, lines 13-16), and if the supporting evidence is not identified, then inhibiting validation of the first input until the evidence is identified or until the first

input is changed to have second predetermined characteristics in relation to the values (column 6, lines 16-21).

As per claim 113, Guinta et al disclose a method of using a computer to gather information about an organizational process or system (column 2, lines 39-40), comprising: obtaining information about an organization to be accessed, wherein the information comprises information regarding assessors (i.e., assessor being someone who has knowledge about the organizational process or system, which inherently indicates that information was obtained regarding the assessor, that indicated that the assessor indeed had knowledge of the organizational process or system to be assessed, column 5, lines 62-63); preparing at least one question regarding the organizational process or system by analyzing the obtained information about the organization (i.e., computer driven questions adapted to prompt the assessor, column 5, lines 58-60); displaying on a display device a first user adjustable icon (i.e., sliding bar indicating a response to how well does your process address this issue, figure 5A) and a second user adjustable icon (i.e., sliding bar indicating a response to how well is your process deployed, figure 5E); and wherein the at least one question being adapted to prompt the assessor to input the assessor's perceptions of the organizational process or system; receiving a first input from a user, the first input corresponding to movement of the first user adjustable icon (i.e., how well does your process address the issue, determined via sliding bar, figure 5E); determining a second allowed input range for a second user adjustable icon based on the first input (i.e., the second allowed range being 0-

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100%, indicates how well a system is deployed, figure 5E); receiving a second input from the user, the second input corresponding to movement of the second user adjustable icon (i.e., input determined via sliding bar, figure 5E).

As per claim 114, Guinta et al disclose the first user adjustable icon comprises a sliding bar icon (column 6, lines 30-32).

As per claim 118, Guinta et al disclose the second user adjustable icon comprises a sliding bar icon (figure 5E).

As per claim 119, Guinta et al disclose the first input corresponds to the users perception of an aspect of a process or system in a present state (column 6, lines 36-41) .

As per claim 120, Guinta et al disclose the second input corresponds to the users estimate of an aspect of a process or system in a projected future state.

As per claim 121, Guinta et al disclose setting a minimum allowed value (i.e., 0%) or the second allowed input range to be equal to the first input.

As per claim 122, Guinta et al disclose setting a maximum allowed value (i.e., 100%) or the second allowed input range to be equal to the first input.

Claims 66, 69, and 70 are rejected based upon the rejection of claims 114, 115, and 118, respectively, since they are the apparatus claims corresponding to the method claims.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-24, 28-47, 49, 52-57, 61-64, 67, 68, 72, 73, 78-99, 102-112, 115-117, 123-134, and 138-143 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guinta et al, in view of Barton et al (US 2002/0059093).

As per claim 1, Guinta et al disclose a method of using a computer to gather information about an organizational process or system (column 2, lines 39-40), comprising: at least one question is provided within a computer and displayed to assess each selected standard (i.e., as seen in figure 1, a series of issues/standards, as seen in table 1, are shown on the assessment screen, including a question with regards to the issue/standard); the question being adapted to prompt an assessor to input the assessor's perceptions of the organizational process or system; receiving a first input from an input device, the first input reflecting the assessor's perception of the organizational process or system (i.e., questions adapted to prompt an assessor to input the assessor's perception, column 5, lines 58-62); comparing within a processing unit of a computer the first input to a first value, and, if the first input has a first predetermined characteristic in relation to the first values (column 5, lines 7-9), then prompting the assessor to identify

evidence that supports the first input, and if the supporting evidence is identified, then validating the first input for subsequent evaluation (column 5, lines 9-16), and if the supporting evidence is not identified, then inhibiting validation of the first input until the evidence is identified or until the first input is changed to have second predetermined characteristics in relation to the first value (column 5, lines 16-21). Guinta et al does not explicitly disclose prompting an assessor to select at least two standards against which to assess the organizational process or system. Barton et al disclose interviews 78 conducted with process owners for are of compliance (§ 0059), wherein interview 78 is conducted in accordance with a question owner's matrix 100 (§ 0062). Question owner's matrix 100 lists compliance assessment area 102, which are presented to the assessor as selected standards, on which the assessment is based (§ 0062, figure 4). Both Guinta et al and Barton et al are concerned with organizational and compliance assessment with respect to specific issues and risks, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include prompting an assessor to select at least two standards in Guinta et al, as seen in Barton et al, thereby giving the assessor in Guinta et al more control over the assessment process, rather than being given questions determined by a computer, thus making the system more robust and flexible.

As per claim 2, Guinta et al disclose analyzing the input to determine if one or more problem areas are present in the organizational process or system (i.e., results may be evaluated to determine problem areas, column 14, lines 52-53).

As per claims 3, 4, 34, and 38, Guinta et al does not disclose displaying remotely and displaying the at least one question across a global computer network, and providing at least one onsite assessor with a PDA. Barton et al disclose centralized database 18 stored remotely from server 12, wherein database 18 is checked out to PDA. Further, once the data has been modified through the PDA, the data can be re-checked into database 18 from the PDA (§ 0049). Both Guinta et al and Barton et al are concerned with gathering information concerning the performance of an organization. In addition, a wide area network, such as the internet, provides an opportunity to quickly and efficiently gather information, particularly where an organization may have various offices, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include displaying the interface remotely and across a network, and including a PDA in Guinta et al, as seen in Barton et al, as an efficient means of delivering the information to the assessor in the Guinta et al system.

As per claim 5, Guinta et al disclose the input is a numerical input (column 5, line 58).

As per claim 6, Guinta et al disclose displaying on the display device at least one corrective action question, the at least one corrective action question being adapted to prompt the assessor to input on the input device the assessor's perception of the problem area of the organizational process or system (i.e., a series of statements or issues shown on the assessment screen, as those depicted in table 1, which includes corrective and preventable action 4.14, column 15, lines 20-23).

As per claim 7, Guinta et al disclose receiving at least one corrective action input, the at least one corrective action input being stored in the computer's memory (i.e., corrective action assessment stored in memory 110 of computer 100, figure 4).

As per claim 8, Guinta et al disclose displaying questions that are repeated within the selected standards only once (i.e., issues are presented only once, as seen in table 1).

As per claim 9, Guinta et al disclose the first predetermined characteristic is defined to mean that the first input has a value that is less than the first value, and the second predetermined characteristic is defined to mean that the first input has a value that is at least as great as the first value (column 6, lines 44-47 and column 7, lines 7-9).

As per claim 10, Guinta et al disclose the first input is on a numerical scale, the scale being 1 to 10, 1 to 100, or 0 to 100 percent (column 6, lines 28-31).

As per claim 11, Guinta et al disclose if evidence is not identified that supports the first input, then further comprising inhibiting the display of subsequent questions until the evidence is identified or until first input is changed to have the second predetermined characteristic in relation to the first value (column 6, lines 16-21).

As per claim 12, Guinta et al disclose prompting the assessor to input a second numerical input on an input device of a computer the assessor's perception of how well the organizational process or system functions to address the issue (column 6, lines 36-37), and receiving the second input from the input device, the second input being stored in a memory of the computer, and the second input reflecting the

assessor's perception of the results achieved by the organizational process or system (column 6, lines 37-41).

As per claim 13, Guinta et al disclose comparing within a processing unit of a computer the second input to a second value, and, if the second input has a first predetermined characteristic in relation to the second value, then prompting the assessor to identify evidence that supports the second input (column 6, lines 50-52), and if evidence is identified that supports the second input, then validating the second input for subsequent evaluation (column 6, lines 56-60), and if the evidence is not identified that supports the second input, then inhibiting validation of the second input until the evidence is identified or until the second input is changed to have a second predetermined characteristic in relation to the second value (column 6, lines 60-65).

As per claim 14, Guinta et al disclose if evidence is not identified that supports the second input, then further comprising inhibiting the display of subsequent questions until the evidence is identified or until second input is changed to have the fourth predetermined characteristic in relation to the second value (column 7, lines 1-6).

As per claim 15, Guinta et al disclose evaluating the organizational process or system by comparing inputs from the assessor with known empirically-gathered information (column 3, lines 59-61).

As per claim 16, Guinta et al disclose using the first and second inputs together to evaluate the organizational process or system (column 8, lines 19-21).

As per claim 17, Guinta et al disclose multiplying the first input with the second input to evaluate the organizational process or system (column 8, lines 21-25).

As per claim 18, Guinta et al disclose using differences between the first input and the second input to evaluate the organizational process or system (column 4, lines 1-3).

As per claim 19, Guinta et al disclose receiving first and second inputs from a plurality of assessors, and determining the standard deviation of the first numerical input, and the standard deviation of the second numerical input, from the numerical inputs received from the assessors, and then using a standard deviation to evaluate at least a portion of the organizational process or system (column 8, lines 25-29).

As per claim 20, Guinta et al disclose the evidence comprises visible evidence (column 4, line 13).

As per claim 21, Guinta et al disclose the evidence comprises supporting documentation (column 4, lines 14-15).

As per claim 22, Guinta et al disclose the evidence comprises visible evidence, and further comprising comparing within a processing unit of a computer the first input to second value, and, if the first input has a first predetermined characteristic in relation to the second value, the prompting the assessor to identify supporting documentation that supports the first input (column 4, lines 15-22); and if supporting documentation is identified, then validating the first input for subsequent evaluation (column 4, lines 22-24), and if the supporting documentation is not identified, then inhibiting the validation of the first input until the supporting documentation is

identified or until the first input is changed to have a second predetermined characteristic in relation to the second value (column 4, lines 24-29).

As per claim 23, Guinta et al disclose prompting the assessor to input on the input device of the computer an assessment as to whether the organizational process or system is demonstrable (column 4, lines 30-32), and, if an input is received from the input device that indicates that the organizational process or system is demonstrable, then validating the first input (column 4, lines 32-35), and, if an input is received from the input device that indicates that the organizational process or system is not demonstrable, then inhibiting validation of the first input until the assessor changes the first input to have a first determined characteristic in relation to a second value (column 4, lines 35-42).

As per claim 24, Guinta et al disclose displaying at least one input as a sliding bar on a display device (column 4, lines 43-44).

Claims 28 and 29 are rejected based upon the rejection of claim 1, since they are machine having a memory claims, corresponding to the method claim.

As per claim 30, Guinta et al disclose prompting an assessor to provided recommendations to improve the organizational process or system (i.e., on-site evaluation team to focus on 8 issues below 45% evaluation factor, column 14, lines 55-58).

As per claim 31, Guinta et al disclose prompting an assessor to provided recommendations to improve the organizational process or system by use of an user adjustable icon system, wherein selecting a value on a first user adjustable icon

limits the range of values displayed for selection on a second user adjustable icon (i.e., sliding bar scale, figure 5E).

As per claim 32, Guinta et al disclose performing an onsite assessment directed to one or more problem areas determined to be present in the organizational process or system (column 14, lines 51-52).

As per claim 33, Guinta et al disclose performing an onsite assessment directed to one or more problem areas determined to be present in the organizational process or system, wherein one or more onsite assessor are provided with a list of the problem areas and a list of the corrective actions input (column 14, lines 55-58).

As per claim 35, Guinta et al disclose the results of the onsite assessment are input into the computer and stored in the computer's memory (figure 4).

As per claim 36, Guinta et al disclose the results provided by each onsite assessor are adjusted by a bias value identified for that assessor (i.e., a plurality of inputs from various assessors are used to calculate one or more standard deviations and compared with each other for evaluation purposes, column 8, lines 25-29).

As per claim 37, Guinta et al disclose analyzing the inputs comprises comparing input from two or more assessors to one another (i.e., 100 different issues assessed by 10 different assessors, with average multiplied evaluation factor of 55%, with only 8 issues below 45%, column 14, lines 51-55).

As per claim 39, Guinta et al disclose comparing input from two or more similar questions to one another (i.e., 100 different issues assessed by 10 different

assessors, with average multiplied evaluation factor of 55%, with only 8 issues below 45%, column 14, lines 51-55).

Claims 40-47, 49, and 52 are rejected based upon the rejection of claims 1, 3, 4, 5, 2, 6-8, 38, and 31, respectively, since they are the apparatus claims corresponding to the method claims.

Claims 53-57 and 61-64 are rejected based upon the rejection of claims 1, 3, 4, 5, 2, 2, 6, 7, and 31, respectively, since they are the computer readable medium (claim 53) and apparatus claims (54-57 and 61-64) corresponding to the method claims.

Claim 67-68 is rejected based upon the same rational as the rejection of claims 3 and 4, respectively.

Claims 72, 73, 91, 108, and 112 are rejected based upon the same rational as the rejection of claims 4, 3, 38, 34, and 38, respectively.

Claims 78-90, 92-99, 102, 103-107, and 109-111 are rejected based upon the same rationale as the rejections of claims 2, 6, 7, 1, 8-16, 17-24, 28-33, and 35-37, respectively.

Claims 115-117, 123-134, and 138-143 are rejected based upon the same rational as the rejection of claims 5, 3, 4, 2, 37, 39, 6, 7, 10, 15, 16, 38, 17-19, 30, and 32-36.

9. Claims 25-27, 48, 50, 51, 58-60, 74-77, 100, 101, and 135-137 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guinta et al, in view of Barton et al, in further view of Mann et al (US 2002/0019765).

As per claims 25-27, neither Guinta et al nor Barton et al disclose preparing an assessment timeline based on assessor input, notifying the assessor of a deadline identified in the assessment timeline, and escalating a notification to one or more predetermined individuals if a response is not received from an assessor within a predetermined period of time. Mann et al disclose an evaluation database 5 to track the progress of an evaluation, including a deadline for completing the evaluation 903 (§ 0061), and an administrator to track the status of the evaluations (§ 0063). Guinta et al, Barton et al, and Mann et al are concerned with effective performance evaluation of an organization. Further, tracking the progress of the assessors in Guinta et al provides an organization with an overall status of the evaluation (as disclosed in Mann et al, § 0063), therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include preparing a timeline and notifying the assessor of a deadline in Guinta et al, as seen in Mann et al, thus making the assessment process in Guinta et al more efficient.

Claims 48, 50, and 51 are rejected based upon the rejection of claims 25, 26, and 27, respectively, since they are the apparatus claims corresponding to the method claims.

Claims 58-60 are rejected based upon the rejection of claims 25-27, respectively, since they are the apparatus claims corresponding to the method claims.

As per claims 74-77, neither Guinta et al, nor Barton et al disclose sending at least one warning notification prior to sending the prepared questions, sending at least one reminder notification if answers are not received within a predetermined period of time, sending the at least one prepared question to a different assessor if answers are not received within a predetermined period of time, and sending at least one reminder notification to an assessor's supervisor if answers are not received within a predetermined period of time. Mann et al discloses a to do form 800, wherein information regarding any manager evaluation to be completed is displayed (§ 0060). In addition, the to do form 800 can be interactive so that the user can launch tasks required to complete the evaluation. Guinta et al, Barton et al, and Mann et al are concerned with effective performance evaluation of an organization. Further, tracking the progress of the assessors in Guinta et al provides an organization with an overall status of the evaluation (as disclosed in Mann et al, § 0063), therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include sending at least one warning notification prior to sending the prepared questions and sending at least one reminder notification in Guinta et al, as seen in Mann et al, thus making the assessment process in Guinta et al more efficient.

Claims 100 and 101 are rejected based upon the same rationale as the rejection of claims 25 and 26, respectively.

Claims 135-137 are rejected based upon the same rationale as the rejection of claims 25-27, respectively.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Mann et al (US 2002/0019765) disclose providing performance assessment of an employee, service, product, or vendor.

-Shaw (USPN 6850892) discloses allocating resources of an organization in order to optimize the effects of the allocation on quality.

-D'Alessandro (USPN 6556974) discloses providing an assessment of an organization's performance.

-Rebane (USPN 6662192) disclose data collection, evaluation, and presentation.

-Bruce (US 2002/0049621) discloses analyzing a process in terms of elements that are the drivers of the process.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (703) 305-1867. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



adb

March 12, 2005


TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600